

1-1-2002

HAM-TMC Library Administrative Guide. Chapter 2: Employment

Houston Academy of Medicine-Texas Medical Center Library

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Recommended Citation

Citation Information: Houston Academy of Medicine-Texas Medical Center Library, "HAM-TMC Library Administrative Guide. Chapter 2: Employment" (2002).

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2.01 EQUAL EMPLOYMENT OPPORTUNITY

The Library is covered by Title VII of the 1964 Civil Rights Act and Executive Order #11246 dated September 4, 1965, and will comply with all the regulations of both items.

In order that all may be informed of the Library's long-standing policy of nondiscrimination and to fulfill our commitment under existing legislation, the following policy statement is submitted:

"It is the policy of the Houston Academy of Medicine - Texas Medical Center Library, as an Equal Opportunity Employer, to provide equal employment opportunities without regard to race, color, creed, religion, national origin, age, sex, or physical or mental handicap. Further, this applies to all employees and applicants for employment in connection with: hiring, placement, upgrading, transfer or demotion; recruiting, advertising or solicitation for employment; treatment during employment; rates of pay or other forms of compensation; selection for training, including apprenticeship; layoff or termination. Use of derogatory statement of conduct based on a person's race, creed, color, national origin, age, sex, or physical or mental handicap will not be tolerated. Each individual employee is entitled to equal treatment, respect, and dignity."

This policy also applies to disabled veterans and veterans of the Vietnam War Era.

The Library will comply with all rules and regulations of (Updated 12/02):

1. Civil Rights Act of 1866 provides citizens the right to contract, sue, participate in legal proceedings and to enjoy full and equal benefits of the laws. However, employees wishing to sue under the 1866 Act must allege the existence of an employment contract.
2. Civil Rights Act of 1871 provides for a remedy when there is a type of discrimination in employment that amounts to a deprivation of federally protected rights under color of state law, usage or custom.
3. Equal Pay Act of 1963, prohibiting paying workers of one sex at a rate different from that paid the other sex where the job in question involves equal skill, effort and responsibility and is performed under similar working conditions in the same establishment.
4. Title VII, Civil Rights Act of 1964, prohibiting discrimination on the basis of race, color, religion, sex, or national origin in any term, condition or privilege of employment. The Library also complies with the Pregnancy Discrimination Act (which is an amendment to the Civil Rights Act of 1964). The Pregnancy Discrimination Act specifies that sex discrimination includes (but is not limited to) discrimination on the basis of pregnancy, childbirth, or related medical conditions. The law requires that organizations regard pregnancy and pregnancy-related illness on an equal basis with all other medical conditions. (Added 5/91)
5. Executive Order #11246 as amended, requiring affirmative action to eliminate discrimination and provide equal employment opportunities.
6. Age Discrimination in Employment Act of 1967 as amended, prohibiting discrimination against employees or job applicants because of age when they are 40 or older.
7. Title IX of Education Amendments of 1972 as amended, prohibiting discrimination on the basis of sex in educational programs, activities, or employment.
8. Sections 503 and 504 of the Rehabilitation Act of 1973 as amended, prohibiting discrimination on the basis of physical or mental handicap.

9. Public Law 93-508 prohibiting discrimination against disabled veterans and veterans of the Vietnam War Era.
10. Texas Commission on Human Rights of 1983, prohibiting discrimination in employment transactions because of race, color, national origin, religion, sex, age, or handicap status.
11. Americans with Disabilities Act of 1990. Effective July 26, 1992, the ADA prohibits discrimination in private employment on the basis of disability. The Library does not discriminate in the hiring or promoting of handicapped persons. We will attempt to make the facilities barrier-free and accessible according to state and federal guidelines. We will schedule work to meet the needs of our handicapped employees, when such scheduling does not adversely affect other employees or production. Our goal is to provide a safe, accessible and comfortable work environment for all employees. (Rev. 4/91)
12. Both the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 include as disabled any individual with a contagious disease. This means that employers must try to reasonably accommodate an applicant or employee with a contagious disease, unless the person is a health or safety threat in the workplace or is unable to perform his or her job duties.
13. Under these Acts, AIDS is considered a disability. The Library will provide reasonable support to individuals with AIDS, and provide education for employees who may have concerns. Employees should know that: (a) AIDS has not been found to be transmitted in the casual work situation; (b) most fears, such as catching AIDS from sharing office equipment and facilities, are unfounded; and (c) co-workers who discriminate against other employees with AIDS will be disciplined.

Inquiries regarding compliance with the laws may be directed to Human Resources. All questions or complaints regarding equal employment should also be directed to Human Resources.

2.02 HIRING PROCEDURES

2.021 Employment at Will

The State of Texas is an employment-at-will state. This doctrine provides that if employment is for an unspecified or indefinite period of time, either the employee or the employer may terminate the employment relationship for good cause, bad cause, or no cause at all.

If hired by the Library, employment is for no definite period and may, regardless of the date or manner of payment of salary, be terminated with or without cause, and with or without notice, at any time, at the option of either the Library or the employee. No modification of this provision shall be effective at any time unless it is in writing and signed by the employee and the Executive Director of the Library.

In addition, employers may modify the terms of employment when it has unequivocally notified the employee of definite changes in employment terms. After notification, the employee's continuing employment will constitute acceptance of the modification.

2.022 Employment of Relatives (Nepotism) (Updated 12/02)

We normally will not hire relatives. In cases where we make an exception, there must not be a supervisory relationship between related employees.

2.023 Office Romances (Added 12/02)

The Library prohibits intimate relationships between a supervisor and a subordinate under their direct supervision. If an intimate relationship develops the Library requires that the supervisor/subordinate relationship be severed or one of the two will have to resign.

2.024 Promotions and Transfers (Updated 12/02)

If an employee from a department is promoted or transfers to an open position within his/her department, it is not necessary to post the position or interview other in-house applicants.

2.0241 Lateral Transfers & Promotions During Probationary Period

To be eligible for a transfer or promotion, an employee must not be on initial or disciplinary probation.

When an employee transfers to a position of equal grade level (lateral move), there will be no merit increase given.

The immediate Supervisor and/or the Executive Director approves and recommends internal promotions to the Human Resources Associate who then offers the position to the employee.

2.025 HIRING PROCEDURES: PROFESSIONAL EXTERNAL CANDIDATES (Updated 12/02)

Human Resources will consult with supervisors on all ads for professional jobs.

After resumes are received by Human Resources, they are reviewed by the Search Committee.

The Human Resources Associate will arrange interview schedules, transportation, and lodging if necessary for the candidate. The Search Committee and the appropriate department are involved in the interview process and the subsequent evaluation of the candidates.

The Search Committee makes the recommends to the Executive Director who makes the final decision.

2.026 HIRING PROCEDURES: FULL-TIME STAFF (Updated 12/02)

The Library makes every effort during the selection process to determine the suitability of prospective staff to perform their anticipated assignments at a high level of quality. The hiring procedure is as follows:

Internal

1. As soon as a vacancy occurs, the immediate supervisor evaluates the job description for possible revision; then it is submitted to Human Resources.
2. If job specifications have changed and warrant a possible change in grade, a Job Analysis Questionnaire should be completed and submitted to Human Resources. Human Resources will then review the job description for possible reclassification.
3. Supervisors and Human Resources collaborate on job placement ads.
4. The job advertisement is posted internally for 3 days before being advertised outside.
5. If there are qualified applicants from the staff, an updated resume will be requested, interviews are scheduled and appropriate tests are given.

External

1. Each applicant fills out an application for employment. All preliminary interviewing and screening are conducted by Human Resources.
2. A description of the job will be given to the candidate. Human Resources informs the applicant about benefits, the Library and the Texas Medical Center.
3. The Department Head will interview the applicant primarily for specific job suitability, e.g. skills, dependability, etc.
4. If the immediate Supervisor, Department Head and/or Executive Director approve, the candidate's references will be checked. At least one previous work reference will be checked. If the applicant has not worked before, a teacher can be used as a reference.
5. Human Resources makes the verbal offer and follows up with an official offer letter.
6. All rejected candidates will be informed officially by letter from Human Resources.

2.027 HIRING HIGH SCHOOL STUDENTS (Updated 12//02)

The Texas Department of Labor and Standards has several regulations concerning the hiring of minors under the age of 16:

- A minor must be at least 14 years old and have completed the seventh grade to be eligible for employment.
- Minors who are 14 or 15 years old may not work between 9:00 p.m. and 5:00 a.m.
- During the school year, they may not work before 7:00 a.m. and after 7:00 p.m. They cannot work more than 3 hours a day, Monday Through Friday and cannot work over 18 hours per week, though 8 of these hours can be accumulated on a Saturday or Sunday. They also cannot work during school hours.
- Minors (14 or 15 years old) may not work as messengers or around hazardous machinery or equipment.
- During the summer, minors can work 8 hours a day or a 40-hour week. They cannot work past 9:00 p.m.

2.028 PROCESSING NEW HIRES (Updated 12/02)

The following must be done after an employee has been hired:

1. The employee's supervisor completes, signs and sends an Employee Status Change form to Human Resources.
2. Human Resources: The new employee completes enrollment forms and receives an orientation packet on the first day of employment. The packet includes an Employee Handbook, the Annual Report, a recent issue of *Library Lines*, Employee Benefits Summary, an organizational chart, a Texas Medical Center map. And schedule an I.D. badge photo with Systems department.
3. The System's department provides training on email and the Library listservs.
4. The supervisor makes arrangements to orient the new employee to the department and the Library.

2.03 EMPLOYEE STATUS CHANGE REPORT (Updated 12/02) (Appendix F)

These reports are to be filled out by Human Resources in conjunction with the supervisor. The report indicates the nature of the employee's status change (e.g. resigned, hired, promoted, transferred, schedule change, etc.). It is important that the supervisor notify Human Resources as soon as a change of status occurs. Human Resources will make the necessary changes in the payroll, benefits, etc.

2.04 VOLUNTEERS (Updated 01/03)

Use of volunteers should be coordinated with Human Resources. A completed wavier form is kept on record for all volunteers.

2.05 WAGE AND HOUR LAW (Updated 12/02)

The Library is subject to the Federal Fair Labor Standards Act (FLSA), generally known as the Wage and Hour Law. The law establishes a minimum wage, regulates overtime compensation, and prohibits wage discrimination on the basis of sex. Federal posting requirements are posted in the Employee Lounge and the Human Resources office.

Exempt vs. Non-Exempt

Employees are classified as exempt or non-exempt using the FLSA guidelines.

Exempt classifications are those employee groups which meet prescribed tests based on salary and job duties. Employee groups, which meet these tests, based on their executive, administrative, or professional status will be exempt from laws governing the payment of minimum wage and compensation for overtime work.

Non-exempt classifications are those employee groups, which do not meet prescribed tests based on salary and job duties. These employee groups will be covered by minimum wage and overtime compensation.

Human Resources will audit job descriptions on a regular basis to determine exemption status. Any changes to job descriptions should be reviewed by Human Resources to ensure that exemption status is not jeopardized.

Overtime Compensation

The FLSA also pertains to overtime hours and stipulates that time and a half is to be paid for overtime work or compensatory hours off at the rate of time and a half are to be given to non-exempt employees. The Library is not in a position to offer overtime pay. Supervisors may, at their discretion, request employees to work extra hours during a certain week. They must then arrange for compensatory time off for non-exempt employees during the succeeding week at the rate of one and a half hours for each overtime hour worked.

2.06 TIME SHEETS (Updated 12/02) (Appendix D)

The Library is subject to the FLSA and compliance with this federal regulation means that all full-time, non-exempt employees must complete time sheets each week. These sheets are signed by the employee and turned over to the supervisor for signing. Each Monday, completed time sheets from the previous week are sent to Human Resources for filing. As required by law, the Library Administration will keep the sheets on file for three years.

Federal law requires that time sheets show only the total number of hours worked, not the hours of work each day. However, our forms have a space for daily totals.

2.07 HOLDING OF MULTIPLE JOBS BY A LIBRARY EMPLOYEE (Updated 12/02)

Holding of More than One Job with the Library

It occasionally happens that:

- A full-time employee wishes to assume a part-time position in the Library in addition to his or her full-time job; or
- A part-time employee wishes to assume a second part-time position.

The regulations of the Wage and Hour Administration of the U.S. Department of Commerce require that any non-exempt employee working more than 40 hours per week for a single employer be paid time-and-a-half for all time over 40 hours. These regulations apply even if an individual wishes to hold two distinct jobs (such as a full-time position in Collections and a part-time position in Circulation). The Library therefore cannot appoint full-time employees to additional part-time positions.

Part-time employees may hold more than a single part-time job as long as the following conditions are met:

- A part-time employee may not create a full-time position by combining two (or more) part-time jobs. All full-time positions are budgeted in advance. A part-time employee

may, however, work up to 40 hours per week by combining part-time jobs if special permission is granted by the Executive Director.

- Part-time employees hours will be separately maintained for each part-time job held, even if the wages are the same.
- No part-time employee may work over 40 hours per week.

Holding Additional Jobs Outside Library Employment ("Moonlighting")

This practice, commonly known as "moonlighting," is acceptable. However, Library policy prohibits employees from dealing in a business sense, or engaging in a business with Library clients, for personal gain in competition with the Library, **both during and after business hours**. Such practices may result in disciplinary action, including termination.

2.08 PRIVACY POLICY (Updated 12/02)

Soliciting and Distribution

To protect the privacy of our clients and employees, the Library does not allow on its premises soliciting by outside persons for funds, memberships, or individual commitments to organizations or causes. We also do not allow the distribution of literature to clients or employees for the same purposes.

Employees who notice solicitation going on in the Library should politely ask the individual to stop. Lack of cooperation can be reported to the Circulation Department or Administration.

Employee Phone Numbers

To protect the privacy of our employees, we will not give out home phone numbers of our staff. If necessary, the immediate supervisor or Human Resources will call a staff member at home and give him/her a message.

Personal Mail

The Library discourages employees from having personal mail directed to them at work.

Desks/Offices

Desks, offices, and lockers are provided by the Library for employee use. Supervisors and co-workers may have a business need to enter another employee's desk or office during an employee's absence. This practice is acceptable to Library management and this policy is meant to ensure that all employees have notice that the Library's desk, offices, etc., are not places in which individuals have a reasonable expectation of privacy.

2.09 UNEMPLOYMENT COMPENSATION INSURANCE (Updated 08/02)

The Texas Unemployment Compensation Act, and related portions of the Labor Code 77th Legislature effective 9/1/01 provides guidelines on filing unemployment claims at <http://www.twc.state.tx.us/laws/tuca/tuca/tutoc.html>.

2.10 FAMILY AND MEDICAL LEAVE ACT OF 1993 (Updated 08/02)

The Family and Medical Leave Act (FMLA) of 1993, signed into law on February 5, 1993, was effective August 5, 1993. The Library's Family Leave Policy became effective May 1, 1993.

Under the new legislation, any employer with at least 50 employees is required to offer unpaid leave of absence to employees to care for a newborn or newly adopted child, to care for a seriously ill family member, or for the employee's own serious illness.

The law requires employers to grant an employee a total of 12 weeks of unpaid leave in any 12 month period, although certain kinds of paid leave (sick leave and vacation) may be substituted.

Eligible Employees

An employee is eligible for leave only if employed:

- at a worksite with at least 50 employees,
- for at least 12 months with the Library, and
- for at least 1,250 hours of service during the 12 month period before the leave.

Part-time or seasonal/temporary employees working less than 1,250 hours per year are not eligible for leave.

Leave Events

An employee is entitled to 12 weeks of unpaid leave during any 12-month period to care for:

- the employee's newborn child,
- a child placed with the employee for adoption or foster care,
- the employee's spouse (or domestic partner as recognized by Texas law), child or parent with a serious health condition, or
- an employee's serious health condition that prevents performance of his or her job functions.

Leave for birth and care, or placement for adoption or foster care must conclude within 12 months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently — which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

- If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.
- FMLA leave may be taken intermittently whenever **medically necessary** to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

Leave can be requested by completing the Leave of Absence section of the Absence Report Form.

Serious Health Conditions

"**Serious health condition**" means an illness, injury, impairment, or physical or mental condition that involves either:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care;
- Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

(1) A health condition (including treatment therefore, or recovery there from) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that **also** includes:

- Treatment two or more times by or under the supervision of a health care provider;
- One treatment by a health care provider with a continuing regimen of treatment;

(2) Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence;

(3) A chronic serious health condition, which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence;

(4) A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or

(5) Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

Although substance abuse may be a serious health condition, an absence because of the employee's use of a substance, rather than treatment for it, is not protected.

Notice and Certification

Employees seeking to use FMLA leave are required to provide 30-day advance notice when the need is foreseeable and such notice is practicable.

The Library may also require employees to provide:

- medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member;
- second or third medical opinions (at the employer's expense) and periodic recertification;
and
- periodic reports during FMLA leave regarding the employee's status and intent to return to work.

When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer's operation.

The Library is required to post a notice explaining rights and responsibilities under FMLA. Posters are located in Human Resources and the Staff Lounge.

Even if the employee does not request FMLA leave the Library must inform employees of their rights and responsibilities under FMLA.

Leave Integration

The Library will require that the employee use any accumulated sick leave followed by accumulated vacation leave for personal medical leave or to care for the employee's spouse, child or parent with a serious health condition.

Once paid leave is exhausted, the Library will provide an additional period of unpaid leave so that the total paid and unpaid leave equals 12 weeks.

Health Benefits

The Library will continue group health, dental, and life insurance coverage of an employee on leave at the same level and under the same conditions that existed while he or she was working. Leave is not a qualifying event under Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). However, a qualifying event may occur when the employer knows the employee is not returning to work and, thus ceases to be on leave.

Also, if the employee fails to return for reasons other than a serious health condition or other circumstances beyond the employee's control, the employee will be required to reimburse the Library for medical and dental insurance premiums the Library paid for the employee's coverage during the leave. Life insurance is considered non-health coverage and cannot be recovered by the employer.

The Library will only continue to provide retirement contributions if the employee does likewise. The employee must make the decision to continue long-term disability insurance.

Job Reinstatement

The Library will require an employee to report on his or her status and intention to return to work. After a leave, the Library will reinstate the employee to the same or equivalent position and benefits held before the leave.

The Library may deny reinstatement to a salaried employee who is among the highest paid 10% of employees. The denial must be necessary to prevent serious economic injury to the Library. The Library must also notify the employee of its intent to deny reinstatement either before or during the leave. However, a highly paid employee is entitled to health coverage continuation for the full 12 weeks, even if he or she receives a notice.

Procedure for Requesting Leave

1. The employee should submit an absence report form requesting leave to his/her immediate supervisor. Following the supervisor's review and approval and the approval of the applicable department head, the report should be forwarded to the Executive Director. This should be submitted 30 days in advance, if possible, and should state the purpose of the leave, the date the leave will begin and probable ending date (if intermittent leave is required, state this on the form). The form should state the employee's approximate accumulation of sick leave and vacation, plans to continue (or discontinue) dependent insurance coverage and plans to continue (or discontinue) retirement contributions and long-term disability insurance coverage during the leave.
 - The Library will continue to provide the employee's medical, dental, and life insurance coverage at no cost to the employee during the leave, but any dependent or long term disability premiums must be paid to the Library before the leave begins. The Library will only continue retirement plan contributions if the employee contributes as well during the leave (these contributions must be deposited with the Library in advance of any unpaid leave).
 - Vacation and Sick Leave will not accrue during unpaid leave.
2. After the Executive Director's review of the request Human Resources will confer with the respective supervisor(s) and will notify the employee of approval, denial or a requirement for further documentation.
 - The employee notification must be in writing and must explain the employee's FMLA obligations. A generic notice is not appropriate; rather, the notice must be adapted to the specific needs of each employee. The Library's notice will include a copy of this policy.

Once leave is granted, the supervisor and the employee should initiate the proper paperwork to cover the employee's leave:

1. The supervisor should submit an Absence Leave Report Form to Human Resources immediately indicating the dates of the leave, the amount of leave that will be paid (including approximate sick leave and vacation accruals) and the amount of leave that will be unpaid.

2. If the employee plans to continue dependent insurance coverage and long-term disability insurance coverage or retirement premium contributions during the absence, premiums/contributions must be paid in advance of any unpaid leave.

While on Leave

It is the employee's responsibility to occasionally check in with his or her supervisor. The supervisor, in turn, has the right to contact the employee regarding job-related questions, estimated date of return to work, etc.

2.11 CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985 (COBRA) (Added 01/03)

Congress passed the landmark Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provisions in 1985. The law amends the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code and the Public Health Service Act to provide continuation of group health coverage that otherwise would be terminated.

COBRA contains provisions giving certain former employees, retirees, spouses and dependent children the right to temporary continuation of health coverage at group rates. This coverage, however, is only available in specific instances:

- Termination of employment (other than for gross misconduct) or reduction of hours worked which renders the employee ineligible for coverage;
- Death of employee;
- Divorce or legal separation;
- For a spouse and eligible dependant, loss of coverage due to the employee becoming eligible for Medicare; or
- For a dependent child, ceasing to qualify as a dependant under the plan.

The law generally covers group health plans maintained by employers with 20 or more employees in the prior year. It applies to plans in the private sector and those sponsored by state and local governments. The law does not, however, apply to plans sponsored by the Federal government and certain church- related organizations.

Group health plans sponsored by private sector employers generally are welfare benefit plans governed by ERISA and subject to its requirements for reporting and disclosure, fiduciary standards and enforcement. ERISA neither establishes minimum standards or benefit eligibility for welfare plans nor mandates the type or level of benefits offered to plan participants. It does, though, require that these plans have rules outlining how workers become entitled to benefits.

For COBRA purposes, a group health plan ordinarily is defined as a plan that provides medical benefits for the employer's own employees and their dependents through insurance or otherwise (such as a trust, health maintenance organization, self-funded pay-as-you-go basis, reimbursement or combination of these). Medical and dental benefits provided under the terms of the plan are also available to COBRA beneficiaries. Life insurance, however, is not a benefit that must be offered to individuals for purposes of health continuation coverage.